

IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH.

F.A.O.NO.500 OF 1989
Date of Decision: 2.8.2006

Bant Ram

..Appellant

Versus

Smt.Gurmail Kaur and others

..Respondents

Present:- Mr. Jatin Sehrawat, Advocate,
For the appellant.

None for the respondents.

H.S.BHALLA, J.

Feeling aggrieved against the award dated 14.2.1989 passed by Motor Accident Claims Tribunal, Ropar (hereinafter referred to as "the tribunal) the appellant, who is the driver of the truck bearing registration No.PUJ 1415, has filed the present appeal challenging the order vide which Arinder Singh, respondent No.4, has not been held liable along with the appellant and respondent No.5 to pay compensation to the claimants-respondent Nos. 1 to 3.

It is unnecessary to burden my award with the facts of the case, inasmuch as, these have been, in detail, recapitulate by the learned Tribunal. However, the facts required to be noticed for the disposal of this appeal are that on 4.6.1986 at about 7.00 P.M. a scooter bearing registration No. PER 1629 was being driven by one Lachhman Singh, on the pillion seat of which, Gurnam Singh was seating. They were proceeding towards village Nurpur Bedi. The scooter was being driven on the left side of the road. When they reached near village Agampur brick kiln, in the meantime, a truck bearing registration No.PUG 1415, which was being driven by Bant Ram, in a rash and negligent manner, came from the side of Anandpur Sahib and struck against the scooter as a result of which, both the driver and the pillion

driver of the scooter fell down and sustained injuries. They were admitted to Civil Hospital, Anandpur Sahib and thereafter, they succumbed to their injuries. The occurrence was witnessed by Bakhtawar Singh and Sardar Singh. The matter was reported to the police Station and a case FIR No.43 dated 4.6.1986 was registered under Sections 279/304-A of the Indian Penal Code against the driver of the truck. It has been averred in the petition that the accident took place due to rash and negligent driving of the driver of the aforesaid truck. Hence, the claim petition.

On the other hand, the claim petition has been contested by respondent Nos. 1 and 2. Respondent No.3 did not appear despite publication and he was proceeded against ex parte vide order dated 23.4.1987. In the written statement filed by respondent Nos. 1 and 2, it has been specifically pleaded that no accident took place. A preliminary objection was also taken that the claim petition was barred by time.

The learned tribunal, after framing of issues and appreciating the ocular as well as documentary evidence produced by the parties on the record of the case, has awarded compensation to the claimants, the operative part of which is reproduced as under:-

“ In view of the observations made above, this claim petition stands accepted and a sum of Rs.1,92,000/- is awarded as compensation to the claimants, equally along with interest at the rate of 12% per annum from the date of petition till realization. The award is given against respondents No.1 and 3, who would be jointly and severally liable to pay the same. The amount of compensation falling to the shares of minor claimants No.2 and 3, would, however, remain deposited in Fixed Deposit Account to be taken at the time of their majority or at any stage

earlier, after getting prior permission from the court. Memo of costs be prepared. File be consigned to record room.”

I have heard the learned counsel for the appellant and have also gone through the record of the case minutely.

Learned counsel appearing for the appellant has vehemently contended that the approach of the learned Tribunal in holding the appellant, driver and Arur Singh, owner of the truck, liable to pay compensation jointly and severally to the legal heirs of the deceased Gurnam Singh is erroneous and is even legally not sustainable in law. Learned counsel has further vehemently contended that the learned tribunal has also committed a grave error in not holding Arinder Singh liable to pay compensation along with the aforesaid persons to the legal heirs of the claimants who, in fact, was the owner of the truck in question and also took the vehicle on supardari alone. In the light of the observations made by the learned tribunal and the contentions raised by the learned counsel appearing for the appellant, the case of the appellant on the basis of evidence, has to be examined minutely.

The learned tribunal, in para 15 of his award, has dealt with the point at issue with regard to the liability of the payment of amount of compensation to be paid to the claimants either by Arur Singh or Arinder Singh elaborately giving sound reasoning on the basis of evidence, holding therein that “ it was Arur Singh respondent No.3, who was recorded as owner of the truck. Therefore, I find that Bant Ram and Arur Singh respondent are liable to pay compensation jointly and severally. Issue No.3 was decided accordingly in favour of the claimants and against the respondents.

I have gone through the finding recorded by the learned tribunal minutely on the aforementioned point, which is the sole point that survives

for consideration before this Court, which, to my mind, has been arrived at by the learned tribunal only after scanning the ocular as well as documentary evidence available on the record. According to Jag Mohan Lal Clerk, office of S.D.M. Ropar, who stepped into the witness box as RW-2 and deposed that he has brought the relevant record of the vehicle, i.e., truck bearing No. PUG 1415. According to this witness, this truck was in the name of Arur Singh son of Nikka Singh. There is no transfer entry regarding the vehicle as per record. However, from the evidence produced, it is clearly established that it was Arur Singh, respondent No.3, who was recorded as owner of the truck. On the basis of the aforesaid testimony, which is based on documentary record, one can easily come to a conclusion that Arur Singh was the owner of the truck in question and not Arinder Singh. It is Arur Singh, who has rightly been held liable by the learned tribunal to pay compensation to the claimants along with the driver of the truck Bant Ram (appellant herein) jointly and severally. In such like circumstances, to my mind, the finding recorded by the learned Tribunal holding Arur Singh, the owner of the truck, liable to pay compensation to the claimant along with the driver of the truck jointly and severally, does not call for any interference and the same is hereby affirmed.

For the reasons recorded above, appeal filed by the appellant fails and is hereby dismissed.

2.8.2006
VK

(H.S.BHALLA)
JUDGE